THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25348 of 2005

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Dated:02.12.2005

Between:

Repeti Appala Naidu S/o Late Veeraswami, Hindu
R/o.D.No.54-3-19/2, Isukathota, Visakhapatnam.

..... PETITIONER

AND

Visakhapatnam Municipal Corporation rep by its Commissioner,

Visakhapatnam

.....RESPONDENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25348 of 2005

ORDER:

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The petitioner allegedly is the owner of building bearing D.No.54-3-19/3 & 54-3-19/2 situated at Isukathota, Visakhapatnam. The petitioner claims that his mother bequeathed the property by a registered Will dated 17.11.1989. The building consists of three portions: ground floor plus two portions in first floor. It is further alleged that the land area being less than 100 square meters, no permission was obtained at the time of construction of the house, but the Visakhapatnam Municipal Corporation is collecting the tax regularly. On 25.11.2005 the employees of the respondent-Corporation allegedly came to the premises of the petitioner along with Police and attempted to demolish the second and third floors without following due process of law. The petitioner, therefore, seeks a declaration that the action of the employees of the respondent-Corporation in attempting to demolish the house of the petitioner is illegal and arbitrary.

The matter was adjourned on 29.11.2005 to enable the learned Standing Counsel for the Visakhapatnam Municipal Corporation to get instructions in the matter. Today, the learned Standing Counsel submits that though G.O.Ms.No.423, dated 31.07.1998, permits the person owning less than 100 square meters of land to raise construction without obtaining the prior permission, but after submission of the building plans, such construction cannot be beyond second floor. He submits that the third floor constructed by the petitioner is illegal. But, the allegation made by the petitioner that on 25.11.2005 the Officials of the respondent tried to demolish the house of the petitioner, is not correct. He also submits that after filing of the writ petition, the employees of the Corporation inspected the premises and found the illegality, and that appropriate action will be taken after giving notice to the petitioner under Section 452(1) of the Hyderabad Municipal Corporations Act, 1955.

In view of the submission made by the learned Standing Counsel, the writ petition must be held to have been filed without proper factual foundation and by making false allegation. Now that the learned Standing Counsel submits that appropriate action will be taken in accordance with law. The Writ Petition is disposed of, recording the same.

The Writ Petition is accordingly, disposed of. No costs.

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(V.V.S.RAO, J)

02.12.2005

vs